

HOUSE BILL 1067

By Holsclaw

AN ACT to amend Tennessee Code Annotated, Title 50, Chapter 9; Title 63 and Title 68, relative to inappropriate involvement of healthcare practitioners with controlled substances.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 63, Chapter 1, Part 1, is amended by adding the following as a new section to be appropriately designated:

(a) As used in this section:

(1) "Confirmed drug test" means a "confirmed test" as defined in § 50-9-103;

(2) "Drug" means a drug as defined in § 50-9-103;

(3) "Employer" means a covered employer, as defined in § 50-9-103, that is a healthcare facility licensed under title 68, chapter 11, part 2, or any other healthcare employer that employs healthcare practitioners; and

(4) "Healthcare practitioner" means any person required to be licensed, permitted, certified, or authorized under this title by a board or committee under the division of health-related boards specified in § 68-1-101(a)(8), that has humans for patients, or under title 68, chapter 24, part 6, or chapter 140.

(b) In order to protect the public health and safety, the department acting through the chief medical officer of the department of health, or the designee of the commissioner of health, may issue an emergency order suspending or restricting the license of a healthcare practitioner who tests positive for any drug on any government or private sector preemployment or employer-ordered confirmed drug test for a covered

employer when the practitioner does not have a lawful prescription and legitimate medical reason for using the drug. The practitioner shall be given forty-eight (48) hours from the time of notification to the practitioner of the confirmed test result to produce a lawful prescription for the drug before an emergency order is issued.

(c) Any drug test used for action pursuant to subsection (b) shall comply with the requirements of title 50, chapter 9. The employer of the healthcare practitioner shall promptly report, as determined by rule, a practitioner who tests positive for any drug on a confirmed drug test, to the practitioner's licensing board or committee and the department.

(d) In issuing an emergency order suspending or restricting the license of a healthcare practitioner who tests positive for any drug, the department shall comply with the procedure set forth in § 4-5-320 (c) and (d).

(e) The commissioner of health is authorized to promulgate rules to effectuate the purposes of this section. The rules shall be promulgated in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.

SECTION 2. Tennessee Code Annotated, Title 63, Chapter 7, Part 1, is amended by adding the following as a new section to be appropriately designated:

A quality improvement committee, as defined in § 63-1-150, may share information concerning substance abuse by a nurse licensed under this chapter with another quality improvement committee pursuant to § 63-1-150(d)(3) or § 68-11-272(c)(3) in furtherance of the functions of the committees.

SECTION 3. Tennessee Code Annotated, Title 63, Chapter 1, Part 1, is amended by adding the following as a new section:

For purposes of § 4-5-320(c), the public health, safety, and welfare imperatively require emergency action by the department of health at any time that a healthcare practitioner as defined in Section 1 tests positive for any drug on a confirmed drug test pursuant to Section 1 or engages in conduct with respect to use, possession, or

diversion of controlled substances, as defined by § 39-17-402, that may reasonably affect the health and safety of patients or the public at large.

SECTION 4. Tennessee Code Annotated, Title 50, Chapter 9, is amended by adding the following as a new section:

Notwithstanding this chapter, a covered employer who has employees who are healthcare practitioners for the purposes of Section 1 of this act shall report a healthcare practitioner who tests positive for any drug, as defined in § 50-9-103, on any government or private sector preemployment or employer-ordered confirmed drug test, as defined in § 50-9-103, to the department of health and the practitioner's licensing or certifying board as required by Section 1.

SECTION 5. This act shall take effect July 1, 2017, the public welfare requiring it.